

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

AMOS FENNELL, #146234

V.

KIRK SISTRUNK, ET AL.

§
§
§
§
§

CIVIL ACTION NO. G-05-549

ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on November 1, 2005, which recommends that the instant case be dismissed with prejudice. In his objections to the Report and Recommendation, Plaintiff reiterates claims brought in his original complaint; however, as correctly stated by the Magistrate Judge, Plaintiff's claims fail to surmount the defense of absolute immunity afforded Defendant.


After *de novo* review pursuant to 28 U.S.C. §636 (b)(1)(C), this Court is of the opinion that the Report and Recommendation of the Magistrate Judge should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein. It is the **ORDER** of this Court that this cause is **DISMISSED** with prejudice for failure to state a claim for which relief can be granted, and as frivolous.

This Order does not release Plaintiff or the Texas Department of Criminal Justice, Institutions Division, from the obligation to pay the filing fee previously imposed.

Plaintiff is advised that if he appeals this dismissal, he will be required to pay the appeal fee of \$255.00 pursuant to the Prison Litigation Reform Act, and he must submit a 6-month certificate of his inmate trust account when he files his notice of appeal.

A certified copy of this Order shall be mailed to: **TDCJ-Office of the General Counsel**, P.O. Box 13084, Austin, Texas, 78711; and, to **TDCJ Local Funds Division**, P.O. Box 629, Huntsville, TX 77342-0629.

DONE at Galveston, Texas, this the 1st day of December, 2005.



Samuel B. Kent
United States District Judge